

[Second Reprint]

ASSEMBLY, No. 2801

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2002

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

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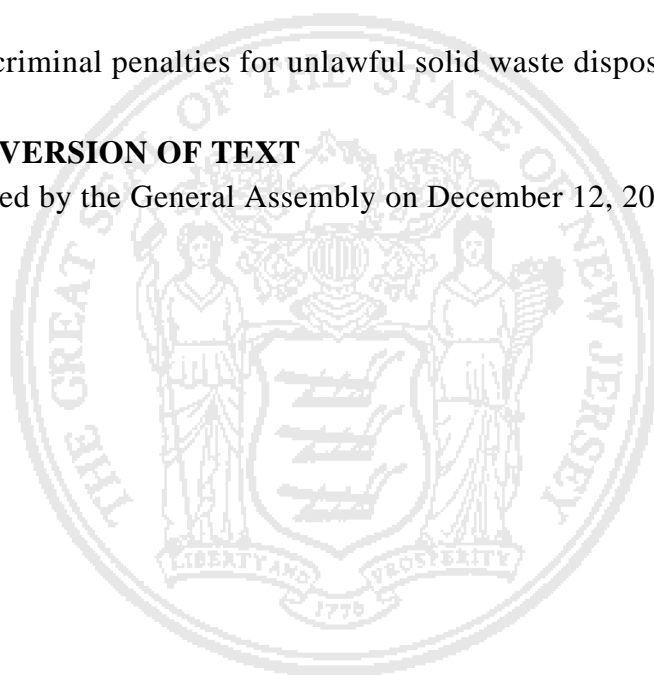
**Assemblymen Ahearn, Burzichelli, Fisher, Assemblywoman Greenstein,
Assemblymen Guear, Sarlo, R.Smith, Van Drew, Senators Inverso and
Allen**

SYNOPSIS

Provides criminal penalties for unlawful solid waste disposal.

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 12, 2002.



(Sponsorship Updated As Of: 12/12/2003)

1 AN ACT concerning unlawful solid waste disposal, amending and
2 supplementing P.L.1970, c.39, and amending P.L.1989, c.118,
3 R.S.40:49-5 and P.L.1950, c.210.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 3 of P.L.1970, c.39 (C.13:1E-3) is amended to read as
9 follows:

10 3. [For purposes of this act, unless the context clearly requires a
11 different meaning] **As used in** ¹[this act] the provisions of P.L.1970,
12 c.39 (C.13:1E-1 et seq.)¹:

13 [a.] "Solid waste" means garbage, refuse, and other discarded
14 materials resulting from industrial, commercial and agricultural
15 operations, and from domestic and community activities, and shall
16 include all other waste materials including liquids, except for [solid
17 animal and vegetable wastes] source separated recyclable materials or
18 source separated food waste collected by [swine] livestock producers
19 [licensed] approved by the State Department of Agriculture to collect,
20 prepare and feed such wastes to [swine] livestock on their own farms.

21 [b.] "Solid waste collection" means the activity related to pick-up
22 and transportation of solid waste from its source or location to a
23 [transfer station or other authorized] solid waste facility or other
24 destination.

25 [c.] "Disposal" means the storage, treatment, utilization,
26 processing, resource recovery of, or the discharge, deposit, injection,
27 dumping, spilling, leaking or placing of any solid or hazardous waste
28 into or on any land or water, so that the solid or hazardous waste or
29 any constituent thereof may enter the environment or be emitted into
30 the air or discharged into any waters, including groundwaters.

31 [d.] "Solid waste management" includes all activities related to the
32 collection [and] or disposal of solid waste by any person engaging in
33 any such process.

34 [e.] "Council" means the Advisory Council on Solid Waste
35 Management.

36 [f.] "Department" means the ¹[State]¹ Department of
37 Environmental Protection.

38 [g.] "Commissioner" means the Commissioner of ¹[Environmental
39 Protection in]¹ the ¹[State]¹ Department of Environmental
40 Protection.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEN committee amendments adopted December 9, 2002.

² Assembly floor amendments adopted December 12, 2002.

1 [h.] "Solid waste facilities" [mean] means and [include] includes
2 the plants, structures and other real and personal property acquired,
3 constructed or operated or to be acquired, constructed or operated by,
4 or on behalf of, any person, public authority or county pursuant to the
5 provisions of P.L.1970, c.39 (C.13:1E-1 et seq.) [, P.L.1970, c.40
6 (C.48:13A-1 et seq.)] or any other act, including transfer stations,
7 incinerators, resource recovery facilities, sanitary landfill facilities or
8 other plants for the disposal of solid waste, and all vehicles,
9 equipmen/t and other real and personal property and rights therein and
10 appurtenances necessary or useful and convenient for the collection or
11 disposal of solid waste in a sanitary manner.

12 [i.] "Public authority" means [any solid waste management
13 authority created pursuant to the "solid waste management authorities
14 law," P.L.1968, c.249 (C.40:66A-32 et seq.);] a municipal or county
15 utilities authority created pursuant to the "municipal and county
16 utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.);
17 [incinerator authority created pursuant to the "incinerator authorities
18 law," P.L.1948, c.348 (C.40:66A-1 et seq.);] a county improvement
19 authority created pursuant to the "county improvement authorities
20 law," P.L.1960, c.183 (C.40:37A-44 et seq.) [,] ; a pollution control
21 financing authority created pursuant to the "New Jersey Pollution
22 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.); or any
23 other public body corporate and politic created for solid waste
24 management purposes in any county [or municipality] , pursuant to
25 the provisions of any law.

26 [j.] "Hackensack Meadowlands District" means the area within the
27 jurisdiction of the [Hackensack] New Jersey Meadowlands
28 [Development] Commission created pursuant to the provisions of the
29 "Hackensack Meadowlands Reclamation and Development Act,"
30 P.L.1968, c.404 (C.13:17-1 et seq.).

31 [k.] "Hackensack Commission" means the [Hackensack] New
32 Jersey Meadowlands [Development] Commission created pursuant to
33 the provisions of the "Hackensack Meadowlands Reclamation and
34 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.).

35 [l. (Deleted by amendment, P.L.1990, c.113)

36 m. (Deleted by amendment, P.L.1990, c.113)

37 n.] "Public sewage treatment plant" means any structure or
38 structures required to be approved by the department pursuant to
39 P.L.1977, c.224 (C.58:12A-1 et seq.) or P.L.1977, c.74 (C.58:10A-1
40 et seq.), by means of which domestic wastes are subjected to any
41 artificial process in order to remove or so alter constituents as to
42 render the waste less offensive or dangerous to the public health,
43 comfort or property of any of the inhabitants of this State, before the
44 discharge of the plant effluent into any of the waters of this State; this
45 definition includes plants for the treatment of industrial wastes, as well

1 as a combination of domestic and industrial wastes.

2 [o.] "Resource recovery" means the collection, separation,
3 recycling and recovery of metals, glass, paper and other materials for
4 reuse; or the incineration of solid waste for energy production and the
5 recovery of metals and other materials for reuse.

6 "Resource recovery facility" means a solid waste facility
7 constructed and operated for the incineration of solid waste for energy
8 production and the recovery of metals and other materials for reuse;
9 or a mechanized composting facility, or any other solid waste facility.

10 [p. (Deleted by amendment, P.L.1990, c.113)

11 q.] "Sanitary landfill facility" means a solid waste facility at which
12 solid waste is deposited on or in the land as fill for the purpose of
13 permanent disposal or storage for a period exceeding six months,
14 except that it shall not include any waste facility approved for disposal
15 of hazardous waste.

16 [r.] "Transfer station" means a solid waste facility at which solid
17 waste is transferred from a solid waste collection vehicle to a
18 [licensed] registered solid waste haulage vehicle, including a rail car,
19 for transportation to an offsite sanitary landfill facility, resource
20 recovery facility, or [other destination] designated out-of-state
21 disposal site for disposal [, except that a "transfer station" shall not
22 include any solid waste facility at which solid waste is received for
23 onsite transfer, and processing or disposal utilizing facility-owned or
24 operated equipment and vehicles operated therefor].

25 (cf: P.L.1990, c.113, s.4)

26

27 2. Section 4 of P.L.1970, c.39 (C.13:1E-4) is amended to read as
28 follows:

29 4. [a.] The department shall have power to supervise solid waste
30 collection activities, solid waste facilities and solid waste disposal
31 [facilities or] operations, and shall in the exercise of [such] this
32 supervision require the registration of [new and existing] all solid
33 waste collection activities, solid waste facilities and solid waste
34 disposal [facilities and] operations[; and] in this State. The
35 department may exempt from the requirement of registration any class
36 of solid waste collection activity, solid waste facility or solid waste
37 disposal [facility or] operation if the department determines that the
38 exemption is necessitated by the public interest.

39 b. The department in reviewing the registration statement for a new
40 solid waste collection [operation or] activity, solid waste [disposal]
41 facility or disposal operation and in determining the conditions under
42 which it may be approved, shall not approve the registration of any
43 new [operation or facility] solid waste collection activity, solid waste
44 facility or disposal operation that does not conform to the district solid
45 waste management plan of the [solid waste management] district in

1 which [such operation or facility] the proposed solid waste collection
2 activity, solid waste facility or disposal operation is to be located, as
3 [such] the relevant district plan shall have been approved by the
4 department as hereinafter provided. [Prior to the approval by the
5 department of the solid waste management plan of any solid waste
6 management district, the department may grant approval to any new
7 solid waste collection or disposal operation or facility planned to be
8 located in any such district and that district shall include said operation
9 or facility in its plan.]
10 (cf: P.L.1975, c.326, s.5)

11

12 3. Section 5 of P.L.1970, c.39 (C.13:1E-5) is amended to read as
13 follows:

14 5. a. [Unless exempted by the department, no] No person shall
15 [hereafter engage or continue to] engage in the collection or disposal
16 of solid waste in this State without first filing [a] an application for a
17 registration statement or engineering design approval and obtaining
18 approval thereof from the department. A person [engaging] seeking
19 to engage in solid waste disposal shall file a separate application for a
20 registration statement and an engineering design approval for each
21 [disposal] particular solid waste facility [which he operates. The
22 registration statement and engineering design for each disposal facility
23 and approval of same shall be for the duration of the plan].

24 b. The application for a registration statement [and the] or an
25 engineering design approval shall be made on forms provided by the
26 department and shall contain [such] whatever information as may be
27 prescribed by the department. The State and any of its political
28 subdivisions, public agencies and public authorities shall be deemed a
29 person within the meaning of [this act] P.L.1970, c.39 (C.13:1E-1 et
30 seq.).

31 c. [No] The application for a registration statement or an
32 engineering design approval shall not be approved by the department
33 [when in the opinion of] if the department [such] determines that the
34 solid waste collection activity [or disposal], solid waste facility or
35 solid waste disposal operation will not meet the standards or criteria
36 set forth in [this amendatory and supplementary act] P.L.1970, c.39
37 (C.13:1E-1 et seq.) or in rules or regulations as may be [promulgated
38 under authority of this act or this amendatory and supplementary act]
39 adopted pursuant thereto. The department may require the amendment
40 of an approved registration [when, in its opinion,] statement or
41 engineering design approval if the department determines that the
42 continued solid waste collection activity or continued operation of a
43 solid waste facility in accordance with its approved registration would
44 not meet [the] these standards, criteria or regulations [described
45 herein].

46 (cf: P.L.1975, c.326, s.6)

1 4. Section 2 of P.L.1989, c.118 (C.13:1E-9.3) is amended to read
2 as follows:

3 2. a. No person shall, regardless of intent, engage, or be permitted
4 to engage, in the [collection or] disposal of solid waste in excess of
5 0.148 cubic yards of solids or 30 United States gallons of liquids,
6 whether for profit or otherwise, except at a solid waste facility or an
7 out-of-state disposal site which has authorization from the appropriate
8 state regulatory agency having jurisdiction over solid waste
9 management to accept solid waste for disposal, or any other place in
10 this State which has authorization from the Department of
11 Environmental Protection to accept solid waste for disposal, as the
12 case may be.

13 b. No person shall, regardless of intent, transport or cause or
14 permit to be transported any solid waste in excess of 0.148 cubic yards
15 of solids or 30 United States gallons of liquids, whether for profit or
16 otherwise, except to a solid waste facility or an out-of-state disposal
17 site which has authorization from the appropriate state regulatory
18 agency having jurisdiction over solid waste management to accept
19 solid waste for disposal, or to any other place in this State which
20 [does not have] has authorization from the Department of
21 Environmental Protection to accept solid waste for disposal, as the
22 case may be.

23 c. No person shall, regardless of intent, cause, engage in or be
24 permitted to engage in, the disposal of any amount of solid waste on
25 real property subject to the use, control or ownership of a railroad
26 company, unless such disposal is expressly authorized by the railroad
27 company and approved by the Department of Environmental
28 Protection.

29 d. The provisions of this section shall be enforced by the
30 Department of Environmental Protection and by every relevant
31 municipality, local board of health, or county health department, as the
32 case may be.

33 (cf: P.L.1995, c.11, s.1)

34
35 5. (New section) a. A person is guilty of a crime of the second
36 degree if ¹[he] that person¹ knowingly:

37 (1) disposes of solid waste, or causes or permits the disposal of
38 solid waste, or otherwise engages in the disposal of solid waste within
39 this State in the amount of 1,000 cubic yards ²or more² of solids or
40 10,000 United States gallons ²or more² of liquids ²[or more]² ,
41 whether for profit or otherwise, except at a solid waste facility which
42 has received approval from the department pursuant to section 5 of
43 P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has
44 authorization from the Department of Environmental Protection to
45 accept solid waste for disposal, as the case may be; or

46 (2) transports or causes or permits to be transported any solid

1 waste in the amount of 1,000 cubic yards ²or more² of solids or
2 10,000 United States gallons ²or more² of liquids or ²[more]² ,
3 whether for profit or otherwise, to a disposal site within this State
4 which does not have approval from the department pursuant to section
5 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal.

6 b. A person is guilty of a crime of the third degree if ¹[he] that
7 person¹ ²[recklessly]² :

8 (1) ²recklessly² disposes of solid waste, or causes or permits the
9 disposal of solid waste, or otherwise engages in the disposal of solid
10 waste within this State in the amount of 100 cubic yards ²or more² of
11 solids or 1,000 United States gallons ²or more² of liquids ²[or more]²
12 , whether for profit or otherwise, except at a solid waste facility which
13 has received approval from the department pursuant to section 5 of
14 P.L.1970, c.39 (C.13:1E-5) or any other place in this State which has
15 authorization from the Department of Environmental Protection to
16 accept solid waste for disposal, as the case may be; or

17 (2) ²recklessly² transports or causes or permits to be transported
18 any solid waste in the amount of 100 cubic yards ²or more² of solids
19 or 1,000 United States gallons ²or more² of liquids ²[or more]² ,
20 whether for profit or otherwise, to a disposal site within this State
21 which does not have approval from the department pursuant to section
22 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid waste for disposal ²;
23 or

24 (3) knowingly disposes of solid waste, or causes or permits the
25 disposal of solid waste, or otherwise engages in the disposal of solid
26 waste within this State in an amount of at least 10 but less than 100
27 cubic yards of solids or an amount of at least 250 but less than 1,000
28 United States gallons of liquids, whether for profit or otherwise,
29 except at a solid waste facility which has received approval from the
30 department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any
31 other place in this State which has authorization from the Department
32 of Environmental Protection to accept solid waste for disposal, as the
33 case may be; or

34 (4) knowingly transports or causes or permits to be transported
35 any solid waste in an amount of at least 10 but less than 100 cubic
36 yards of solids or an amount of at least 250 but less than 1,000 United
37 States gallons of liquids, whether for profit or otherwise, to a disposal
38 site within this State which does not have approval from the
39 department pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to
40 accept solid waste for disposal² .

41 Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3,
42 a fine of up to ¹[\$50,000.00] \$50,000¹ may be imposed for a violation
43 of this subsection.

44 c. A person is guilty of a crime of the fourth degree if ¹[he] that
45 person¹ recklessly:

46 (1) disposes of solid waste, or causes or permits the disposal of

1 solid waste, or otherwise engages in the disposal of solid waste within
2 this State in an amount of at least 10 but less than 100 cubic yards of
3 solids or an amount of at least 250 but less than 1,000 United States
4 gallons of liquids, whether for profit or otherwise, except at a solid
5 waste facility which has received approval from the department
6 pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) or any other place
7 in this State which has authorization from the Department of
8 Environmental Protection to accept solid waste for disposal, as the
9 case may be; or

10 (2) transports or causes or permits to be transported any solid
11 waste in an amount of at least 10 but less than 100 cubic yards of
12 solids or an amount of at least 250 but less than 1,000 United States
13 gallons of liquids, whether for profit or otherwise, to a disposal site
14 within this State which does not have approval from the department
15 pursuant to section 5 of P.L.1970, c.39 (C.13:1E-5) to accept solid
16 waste for disposal.

17 Notwithstanding the provisions of subsection b. of N.J.S.2C:43-3,
18 a fine of up to ¹[\$25,000.00] \$25,000¹ may be imposed for a violation
19 of this subsection.

20 d. A person who knowingly or recklessly engages in the collection
21 of solid waste, whether for profit or otherwise, in violation of the
22 requirements of section 5 of P.L.1970, c.39 (²[C.13-1E-5] C.13:1E-
23 5²), is guilty of an offense.

24 It is a crime of the third degree if the amount of solid waste
25 collected is in the amount of 100 cubic yards ²or more² of solids or
26 1,000 United States gallons ²or more² of liquids ²[or more]² , and it
27 is a crime of the fourth degree if the amount of solid waste collected
28 is at least 10 but less than 100 cubic yards of solids or at least 250 but
29 less than 1,000 United States gallons of liquids.

30 e. A prosecution for a violation of the provisions of this section
31 shall be commenced within ten years of the date of discovery of the
32 violation.

33 f. The quantity of solid waste involved in an offense under this
34 section shall be determined by the trier of fact. The quantity of solid
35 waste involved in offenses committed pursuant to one scheme or
36 course of conduct, whether at one or several locations, may be
37 aggregated in determining the degree of the offense.

38

39 6. R.S.40:49-5 is amended to read as follows:

40 40:49-5. The governing body may prescribe penalties for the
41 violation of ordinances it may have authority to pass, by one or more
42 of the following: imprisonment in the county jail or in any place
43 provided by the municipality for the detention of prisoners, for any
44 term not exceeding 90 days; or by a fine not exceeding \$1,250; or by
45 a period of community service not exceeding 90 days.

1 The governing body may prescribe that for the violation of any
2 particular ordinance at least a minimum penalty shall be imposed which
3 shall consist of a fine which may be fixed at an amount not exceeding
4 ¹[\$100.00] \$100¹.

5 The governing body may prescribe that for the violation of an
6 ordinance pertaining to unlawful solid waste disposal at least a
7 minimum penalty shall be imposed which shall consist of a fine which
8 may be fixed at an amount not exceeding \$2,500 or a maximum
9 penalty by a fine not exceeding \$10,000.

10 The court before which any person is convicted of violating any
11 ordinance of a municipality shall have power to impose any fine, term
12 of imprisonment, or period of community service not less than the
13 minimum and not exceeding the maximum fixed in such ordinance.

14 Any person who is convicted of violating an ordinance within one
15 year of the date of a previous violation of the same ordinance and who
16 was fined for the previous violation, shall be sentenced by a court to
17 an additional fine as a repeat offender. The additional fine imposed by
18 the court upon a person for a repeated offense shall not be less than
19 the minimum or exceed the maximum fine fixed for a violation of the
20 ordinance, but shall be calculated separately from the fine imposed for
21 the violation of the ordinance.

22 Any municipality which chooses not to impose an additional fine
23 upon a person for a repeated violation of any municipal ordinance may
24 waive the additional fine by ordinance or resolution.

25 Any person convicted of the violation of any ordinance may, in the
26 discretion of the court by which he was convicted, and in default of the
27 payment of any fine imposed therefor, be imprisoned in the county jail
28 or place of detention provided by the municipality, for any term not
29 exceeding 90 days, or be required to perform community service for
30 a period not exceeding 90 days.

31 (cf: P.L.2001, c.274)

32
33 7. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended to
34 read as follows:

35 2-4. Each municipality governed by an optional form of
36 government pursuant to this act shall, subject to the provisions of this
37 act or other general laws, have full power to:

38 (a) Organize and regulate its internal affairs, and to establish, alter,
39 and abolish offices, positions and employments and to define the
40 functions, powers and duties thereof and fix their terms, tenure and
41 compensation;

42 (b) Adopt and enforce local police ordinances of all kinds and
43 impose one or more of the following penalties: fines not exceeding
44 [\$1,000.00] ¹[\$1,250.00] \$1,250¹ or imprisonment for any term not
45 exceeding 90 days, or a period of community service not exceeding 90
46 days for the violation thereof; prescribe that for the violation of

1 particular ordinances at least a minimum penalty shall be imposed
2 which shall consist of a fine which may be fixed at an amount not
3 exceeding ¹[\$100.00] \$100¹; prescribe that for the violation of an
4 ordinance pertaining to unlawful solid waste disposal at least a
5 minimum penalty shall be imposed which shall consist of a fine which
6 may be fixed at an amount not exceeding \$2,500 or a maximum
7 penalty by a fine not exceeding \$10,000; to construct, acquire, operate
8 or maintain any and all public improvements, projects or enterprises
9 for any public purpose, subject to referendum requirements otherwise
10 imposed by law, and to exercise all powers of local government in
11 such manner as its governing body may determine;

12 (c) Sue and be sued, to have a corporate seal, to contract and be
13 contracted with, to buy, sell, lease, hold and dispose of real and
14 personal property, to appropriate and expend moneys, and to adopt,
15 amend and repeal such ordinances and resolutions as may be required
16 for the good government thereof;

17 (d) Exercise powers of condemnation, borrowing and taxation in
18 the manner provided by general law.

19 Any person who is convicted of violating an ordinance within one
20 year of the date of a previous violation of the same ordinance and who
21 was fined for the previous violation, shall be sentenced by a court to
22 an additional fine as a repeat offender. The additional fine imposed by
23 the court upon a person for a repeated offense shall not be less than
24 the minimum or exceed the maximum fine fixed for a violation of the
25 ordinance, but shall be calculated separately from the fine imposed for
26 the violation of the ordinance.

27 Any municipality which chooses not to impose an additional fine
28 upon a person for a repeated violation of any municipal ordinance may
29 waive the additional fine by ordinance or resolution.

30 (cf: P.L.1989, c.114, s.2)

31

32 8. This act shall take effect immediately.